1948.

File No. B. Prevention of Prostitution/48

Legal **DEPARTMENT**

B **BRANCH**

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K.S.R. 5/6

Subject:—

L. A. Bill No IX of 1948

A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

Bombay Act No. XXVI of 1948.

1.20

File No. B. Prevention of Prostitution/48

Ltd. Sectt. Slip 24 B e.

553-B

Office of the R.L.A.

From the above Department note at page 1ul ante it appears that the R.L.A. is asked to draft a self-contained Bill inclusive of the amendments proposed in this file to replace the Bombay Prevention of Prostitution Act, 1923. The reasons advanced for the enactment of a fresh measure altogether are that the existing Act has been amended from time to time and that the amendments now proposed are numerous. It is usual to enact a self-contained measure only when there is an appreciable change in the scheme of an Act. Presumably that Department considers that a fresh self-contained Bill will be more suitable for the guidance of the officers concerned and the public. In this connection it is pointed out that the Bombay Prevention of Prostitution Act, 1923, has been reprinted as modified upto 1st October 1945 and copies of the reprint are available from the Superintendent, Government Printing and Stationery, Bombay. As soon as the Act is further amended as now proposed a fresh reprint incorporating all the amendments will be issued and be available to whosoever wants it. In the circumstances H.D. is requested to state whether the re-enactment of a self-contained Act to replace the Bombay Prevention of Prostitution Act, 1923 is necessary or whether an amending Bill will serve the purpose.

Sd/- D.V. Vyas

Remembrancer of Legal Affairs.

U.R. to H.D., No. 7831, dated the 29th July 1947.

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K.S.R.
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Office of the R.L.A.

The necessary draft Bill is sent herewith.

2. Clause 2 of the draft Bill provides for the re-enactment of Bombay Act VII of 1913.

3. Clause 3 provides for the amendment of section 2 of the existing Act on the lines proposed in the H.D. Memo. at p.1/6. The present definition of "brothel" in section 2 of the Act provides that a "brothel" means a house, room or place which is habitually used by more than one person for the purposes of prostitution. In the proposed explanations in the H.D. Memo. at p.1/6 the expression "habitually" does not appear. H.D. is requested to consider whether the expression "habitually" should also be inserted in the new provisions defining "brothel". The omission of the expression may in practice cause hardship to the landlords of the premises. If it is decided that the expression should not be inserted in the provisions, H.D. should consider whether in the present definition of "brothel" in the Act the expression should be retained or deleted.

4. The proposed amendment of section 5 contained in the H.D. Memo. does not appear necessary or suitable. It does not appear necessary in all cases for obtaining a conviction under the section to prove actual carnal intercourse. The L.L.A. has not come across any decision of the High Court under the Act or the I.P.C. which has some sections dealing with prostitution, which lays down that proof of actual carnal intercourse is necessary for conviction in every such case. In fact, the provision suggested in the H.D. Memo. contemplates that the fact of living on the earnings of prostitution can be proved by evidence other than that of actual carnal intercourse. A provision of this kind may, by implication, suggest that proof of carnal intercourse is necessary in general to prove prostitution. That would prove in-

convenient. In any case, the word "carnal" is inappropriate. The provision, therefore, has not been included in the draft Bill.

5. Clause 6 provides for the proposed amendment of section 6. It does not appear necessary to insert the words "whether a prostitute or not" in the section as proposed. The intention is sufficiently carried out without the insertion of these words.

6. Clause 10 provides for insertion of new section 9B on the lines proposed in the H.D. Memo. Sub-section (1) of section 9B in the draft Bill prohibits carrying on the business of a common prostitute in premises adjacent also to cinemas, theatres or railway stations. These places are added as they too are frequented by the public. It is considered inadvisable to provide for a general prohibition in respect of all places of the description mentioned in sub-section (1). The sub-section, therefore, provides further for an application of the prohibition to such of those places only as are notified in Greater Bombay by the Commissioner of Police and in other places by the District Magistrate. The wording of sub-section (2) and sub-section (3) is on the lines of the provisions in section 8B and 9A(3) respectively.

7. The amendment proposed to the City of Bombay Police Act, 1902, has been incorporated in a separate Bill amending that Act.

8. The draft Bill has been prepared after discussion with Secretary, H.D., and H.M., H.D. H.D. should verify whether it carries out its intentions.

9. The subject-matter of the Bill falls under entries 2, 14 and 37 in the Provincial Legislative List and entries 1, 5 and 8 in the Concurrent Legislative List in

the Seventh Schedule to the Government of India Act, 1935. The Bill does not require any sanction or recommendation under the Government of India Act, 1935. As the Bill contains provisions repugnant to those of the Indian Evidence Act, 1872, which is an existing law in relation to entry 3 in the Concurrent Legislative List, it would be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

10. As the Bill contains a provision for re-enactment, H.D. is requested to take immediate steps to enable this Department to publish the Bill. H.D. is requested to attach a suitable Statement of Objects and Reasons to the Bill.

Sd/- P.N.L. 28/1/48

Remembrancer of Legal Affairs.

U.O. to H.D. No. 870 dated the 29th January 1948.

KAN/3/5.
4 c.

No.2361

Legal Department,

Bombay Castle, 10th March 1948.

From

F. M. Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To

The Private Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor an authentic copy of the Bill to amend the Bombay Prevention of Prostitution Act, 1923, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 23rd February 1948 and on the 3rd March 1948, respectively.

2. The subject-matter of the Bill falls under entries 2, 14 and 37 in List II and entries 1, 5 and 6 in List III in the Seventh Schedule to the Government of India Act, 1935. As the Bill contains provisions repugnant to those of the Indian Evidence Act, 1872, which is an existing law relating to entry 5 in List III, it is necessary to reserve the Bill for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

3. I also forward herewith six copies of each of the/ items

items

nos. 1 to 3 and three copies of item no. 4 of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 20th & 23rd February 1948 and of the Bombay Legislative Council dated the 3rd March 1948.	

5. Since the Bill seeks inter alia to re-enact the Bombay Prevention of Prostitution (Amendment) Act, 1943 (Bom. VII of 1943), made by the Governor during section 93 regime, it is necessary to publish this Bill as an Act before 3rd April 1948, the date on which the said Act would otherwise cease to have effect. It is, therefore, requested that His Excellency the Governor-General may be moved to give his assent to the Bill before the said date and to convey the assent by telegram and also to communicate the date on which the assent is given.

I have the honour to be,
Sir,
Your most obedient servant,

Id/- P.M.L. 10/3

Secretary to the Government of
Bombay,
Legal Department.

Through
The Secretary to the Government of Bombay,
Home Department.

KAN/3-5.
4 c.

No. P.S.G.- 1283
Office of the Private Secretary to the Governor,
Government House,
Bombay, - 14th March 1948.

From

L. M. Nadkarni, Esquire, ICS.,
Private Secretary to the Governor of Bombay.

To The Secretary to the Bombay Legislature Department,
Council Hall, Bombay.

Subject: The Bombay Prevention of Prostitution (Amendment) Bill, 1948.

Sir,

With reference to the above-mentioned Bill which was x read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 23rd February and 3rd March, 1948, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as the provisions of the Bill are repugnant to those of the Indian Evidence Act, 1872, which is an existing law relating to entry 5 in the Concurrent Legislative List, it is necessary to reserve the Bombay Prevention of Prostitution (Amendment) Bill, 1948, for the section 108(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserves the Bill for the consideration of His Excellency the Governor-General.

His Consideration of His Excellency the Governor-General with reference to

Your obedient servant,

L.M. NADKARNI.

Private Secretary
to the Governor of Bombay.

No. P.S.G.- 1284
Office of the Private Secretary to the Governor,
Government House,
Bombay, 14th March 1948.

Copy forwarded with compliments for information to :-

(a) The Secretary to Government, Legal Department, with reference to his letter No. 2361, dated the 10th March 1948.
(b) The Secretary to Government, Home Department, with reference to his endorsement No. 574/6-B, dated the 11th March 1948.

By order of the Governor of Bombay,

Sd/- L. M. Nadkarni
Private Secretary
to the Governor of Bombay.

KAH/3.-5.
4 c.

No. P.S.G.- 1473

From

THE Private SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

Subject: The Bombay Prevention of Prostitution (Amendment) Bill, 1948.

GOVERNMENT HOUSE,

BOMBAY, 30th March 1948.

Sir,

With reference to the correspondence resting with this Office endorsement No. P.S.G.-1204, dated 14th March 1948, I am directed to inform you that intimation has been received from the Secretary to the Government of India, Ministry of Home Affairs, that His Excellency the Governor-General assented to the Bombay Prevention of Prostitution (Amendment) Bill, 1948, on the 28th March 1948.

Your obedient servant,

Sd/-
for Private Secretary
to the Governor of Bombay.

KAH/30-3.
4 C.

No. P.S.G.- 1513

From

THE Private SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

Subject: The Bombay Prevention of Prostitution (Amendment) Bill, 1918.

GOVERNMENT HOUSE,

BOMBAY, 2nd April 1918.

Sir,

In continuation of my letter No. P.S.G.- 1473, dated 30th March 1918, I forward herewith, with His Excellency the Governor-General's assent signified thereon, the authentic copy of the Bombay Prevention of Prostitution (Amendment) Bill, 1918.

Your obedient servant,

Sd/-
for Private Secretary
to the Governor of Bombay.

KAH/30-5.
4 c.

Bills.

A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No.1340
Bombay Castle, 7th February 1948.

RESOLUTION:- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 7th February 1948, as Bill No. IX of 1948.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts, and the translations should be published in the Bombay Government Gazette, on the 11th February 1948.

3. The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

Sd/- S. L. Chaudhari,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and Statement of Objects and Reasons and with a request that 830 Gazette copies of the Bill and the Statement of Objects and Reasons may be forwarded to the Bombay Legislature Department for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the * use of the Legal Department and 20 copies for the use of the Home Department)

The Home Department,) with a copy
The Oriental Translator to Government) of the Bill
The Bombay Legislature Department,) and S.O.R.
The Director of Publicity, Bombay,)
The Enquiry officer for the Secretariat,)
Bombay.)

* with five extra copies of the Bill.

KM/30-5.
4 c.

Acts.

Publication of the Bombay Prevention of Prostitution (Amendment) Act, 1948.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No.3111.
Bombay Castle, 30th March 1948.

Letter to the Private Secretary to the Governor, No.2361, dated the 10th March 1948.

Letter from the Private Secretary to the Governor, No. P.S.G.-1473 dated the 30th March 1948.

RESOLUTION:- The law should be published as Bombay Act No. XXVI of 1948, in the Bombay Government Gazette dated the 30th March 1948.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts, and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay.

Sd/- S. L. CHAUDHARI,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department,
The Home Department,) with a
The Oriental Translator to Government,) copy of
The Bombay Legislature Department,) the Act.
The Director of Publicity, Bombay,)
The Enquiry Officer for the Secretariat,)
Bombay.)

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a with five extra copies of the Act.

KAB/30-5.
A C.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 7TH FEBRUARY 1948.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules:—

L. A. BILL No. IX OF 1948.

A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

26 Geo. 5, Ch. 2. WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Prevention of Prostitution (Amendment) Act, 1943 (Bom. VII of 1943);

Bom. XI of 1923. AND WHEREAS it is expedient to amend the Bombay Prevention of Prostitution Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Bombay Prevention of Prostitution (Amendment) Act, 1948.

Repeal and re-enactment of Bom. VII of 1943. 2. The Bombay Prevention of Prostitution (Amendment) Act, 1943 (Bom. VII of 1943), is hereby repealed and re-enacted.

Amendment of section 2 of Bom. XI of 1923. 3. In section 2 of the Bombay Prevention of Prostitution Act, 1923 (Bom. XI of 1923) (hereinafter called the said Act),—

(i) to the definition of the expression "brothel" the following shall be added, namely:—

"and includes—

(1) where any house, room or place, or any part thereof is divided into cubicles by any means

including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(2) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(3) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or parts therein or otherwise.";

(ii) in the definition of the expression "place of public amusement",—

(*a*) after the word "theatre" the word "cinema" shall be inserted; and

(*b*) for the words "or fencing school" the words fencing school or dancing school" shall be ubstituted.

Amendment of section 3 of Bom. XI of 1923.

4. In section 3 of the said Act,—

(i) after the words "carnal intercourse" where they occur at both the places the words "or any act of gross indecency" shall be inserted;

(ii) for the words "three months" the words "six months" shall be substituted;

(iii) for the words "one hundred rupees" the words "five hundred rupees or with both" shall be substituted.

Amendment of section 4 of Bom. XI of 1923.

5. In section 4 of the said Act,—

(i) after the word "entertainment" the words "Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known" shall be inserted;

(ii) for the words "fine which may extend to one hundred rupees" the words "imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

Amendment of section 6 of Bom. XI of 1923.

6. In section 6 of the said Act, for the words "to become a prostitute" the words "for the purposes of prostitution" shall be substituted.

Amendment of section 7 of Bom. XI of 1923.

7. In section 7 of the said Act, for the words "with a view to her becoming a prostitute" the words "whether a prostitute or not, for the purposes of prostitution" shall be substituted.

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8. In section 8B of the said Act, for the words "five hundred" the words "one thousand" shall be substituted. Amendment of section 8B of Bom. XI of 1923.

9. For the marginal note to section 9 of the said Act, the following shall be substituted, namely :— Amendment of marginal note to section 9 of Bom. XI of 1923.

"Removal of prostitutes."

10. After section 9A of the said Act, the following new section shall be inserted, namely :— Insertion of new section 9B in Bom. XI of 1923.

"9B. (*1*) Whoever carries on the business of a common prostitute in any premises— Common prostitute in vicinity of public places.

(*a*) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(*b*) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(*2*) Any person who— Punishment for permitting premises to be used for business of common prostitutes.

(*a*) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (*a*) or notified under clause (*b*) of sub-section (*1*) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or

(*b*) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*3*) In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part Presumption as to knowledge.

thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute."

STATEMENT OF OBJECTS AND REASONS.

The Bombay Prevention of Prostitution Act, 1923, has been found to be defective in several respects. It failed to achieve the object for which it was intended and the punishments that could be inflicted under it were not adequate to check the evil effectively. Suggestions were received by Government for the amendment of the Act. The provisions of the Act were accordingly examined by a Special Committee appointed by Government to examine the defects found in its working and to make recommendations to make it effective. The Bill is intended to give effect to the recommendations of the Committee. Provision has also been made for re-enactment of Bombay Act VII of 1943, as it would expire on completion of a period of two years from the date of restoration of the constitution.

(Signed) MORARJI DESAI.

Dated 6th February 1948.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

Bombay, dated 7th February 1948.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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L. A. BILL No. IX OF 1948.

A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

(As read for the third time and passed by the Legislative Assembly on the 23rd February 1948.)

26 Geo. 5, Ch. 2.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Prevention of Prostitution (Amendment) Act, 1943;

Bom. VII of 1943.

Bom. XI of 1923.

AND WHEREAS it is expedient to amend the Bombay Prevention of Prostitution Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Prevention of Prostitution (Amendment) Act, 1948.

Repeal and re-enactment of Bom. VII of 1943.

2. The Bombay Prevention of Prostitution (Amendment) Act, 1943, is hereby repealed and re-enacted.

Amendment of section 2 of Bom. XI of 1923.

3. In section 2 of the Bombay Prevention of Prostitution Act, 1923 (hereinafter called the said Act),—

(i) to the definition of the expression "brothel" the following shall be added, namely:—

"and includes—

(1) where any house, room or place, or any part thereof is divided into cubicles by any means

including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(2) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(3) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or parts therein or otherwise.";

(ii) in the definition of the expression "place of public amusement",—

(*a*) after the word "theatre" the word "cinema" shall be inserted; and

(*b*) for the words "or fencing school" the words "fencing school or dancing school" shall be substituted.

Amendment of section 3 of Bom. XI of 1923.

4. In section 3 of the said Act,—

(i) after the words "carnal intercourse" where they occur at both the places the words "or any act of gross indecency" shall be inserted;

(ii) for the words "three months" the words "six months" shall be substituted;

(iii) for the words "one hundred rupees" the words "five hundred rupees or with both" shall be substituted.

Amendment of section 4 of Bom. XI of 1923.

5. In section 4 of the said Act,—

(i) after the word "entertainment" the words "Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known" shall be inserted;

(ii) for the words "fine which may extend to one hundred rupees" the words "imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

Amendment of section 6 of Bom. XI of 1923.

6. In section 6 of the said Act, for the words "to become a prostitute" the words "for the purposes of prostitution" shall be substituted.

Amendment of section 7 of Bom. XI of 1923.

7. In section 7 of the said Act, for the words "with a view to her becoming a prostitute" the words "whether a prostitute or not, for the purposes of prostitution" shall be substituted.

8. In section 8B of the said Act, for the words "five hundred" the words "one thousand" shall be substituted. Amendment of section 8B of Bom. XI of 1923.

9. For the marginal note to section 9 of the said Act, the following shall be substituted, namely :— Amendment of marginal note to section 9 of Bom. XI of 1923.

"Removal of prostitutes."

10. After section 9A of the said Act, the following new section shall be inserted, namely :— Insertion of new section 9B in Bom. XI of 1923.

"9B. (*1*) Whoever carries on the business of a common prostitute in any premises— Common prostitute in vicinity of public places.

(*a*) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(*b*) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(*2*) Any person who— Punishment for permitting premises to be used for business of common prostitutes.

(*a*) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (*a*) or notified under clause (*b*) of sub-section (*1*) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or

(*b*) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*3*) In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part Presumption as to knowledge.

thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute."

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STATEMENT OF OBJECTS AND REASONS.

The Bombay Prevention of Prostitution Act, 1923, has been found to be defective in several respects. It failed to achieve the object for which it was intended and the punishments that could be inflicted under it were not adequate to check the evil effectively. Suggestions were received by Government for the amendment of the Act. The provisions of the Act were accordingly examined by a Special Committee appointed by Government to examine the defects found in its working and to make recommendations to make it effective. The Bill is intended to give effect to the recommendations of the Committee. Provision has also been made for re-enactment of Bombay Act VII of 1943, as it would expire on completion of a period of two years from the date of restoration of the constitution.

Dated 6th February 1948.

MORARJI DESAI

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. IX OF 1948.]

(As read for the third time and passed by the Legislative Assembly on the 23rd February 1948.)

A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

[Mr. MORARJI DESAI, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS

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L. A. BILL No. IX OF 1948.

A Bill to amend the Bombay Prevention of Prostitution Act, 1923.

(As read for the third time and passed by the Legislative Assembly on the 23rd February 1948.)

(As read for the third time and passed by the Legislative Council on the 3rd March 1948.)

26 Geo. 5, Ch. 2.

Bom. VII of 1943.

Bom. XI of 1923.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Prevention of Prostitution (Amendment) Act, 1943;

AND WHEREAS it is expedient to amend the Bombay Prevention of Prostitution Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Prevention of Prostitution (Amendment) Act, 1948.

Repeal and re-enactment of Bom. VII of 1943.

2. The Bombay Prevention of Prostitution (Amendment) Act, 1943, is hereby repealed and re-enacted.

Amendment of section 2 of Bom. XI of 1923.

3. In section 2 of the Bombay Prevention of Prostitution Act, 1923 (hereinafter called the said Act),—

(i) to the definition of the expression "brothel" the following shall be added, namely:—

"and includes—

(1) where any house, room or place, or any part thereof is divided into cubicles by any means

including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(2) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(3) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or parts therein or otherwise.";

(ii) in the definition of the expression "place of public amusement",—

(*a*) after the word "theatre" the word "cinema" shall be inserted; and

(*b*) for the words "or fencing school" the words "fencing school or dancing school" shall be substituted.

Amendment of section 3 of Bom. XI of 1923.

4. In section 3 of the said Act,—

(i) after the words "carnal intercourse" where they occur at both the places the words "or any act of gross indecency" shall be inserted;

(ii) for the words "three months" the words "six months" shall be substituted;

(iii) for the words "one hundred rupees" the words "five hundred rupees or with both" shall be substituted.

Amendment of section 4 of Bom. XI of 1923.

5. In section 4 of the said Act,—

(i) after the word "entertainment" the words "Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known" shall be inserted;

(ii) for the words "fine which may extend to one hundred rupees" the words "imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

Amendment of section 6 of Bom. XI of 1923.

6. In section 6 of the said Act, for the words "to become a prostitute" the words "for the purposes of prostitution" shall be substituted.

Amendment of section 7 of Bom. XI of 1923.

7. In section 7 of the said Act, for the words "with a view to her becoming a prostitute" the words "whether a prostitute or not, for the purposes of prostitution" shall be substituted.

8. In section 8B of the said Act, for the words "five hundred" the words "one thousand" shall be substituted. Amendment of section 8B of Bom. XI of 1923.

9. For the marginal note to section 9 of the said Act, the following shall be substituted, namely :— Amendment of marginal note to section 9 of Bom. XI of 1923.

"Removal of prostitutes."

10. After section 9A of the said Act, the following new section shall be inserted, namely :— Insertion of new section 9B in Bom. XI of 1923.

"9B. (*1*) Whoever carries on the business of a common prostitute in any premises— Common prostitute in vicinity of public places.

(*a*) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(*b*) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(*2*) Any person who— Punishment for permitting premises to be used for business of common prostitutes.

(*a*) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (*a*) or notified under clause (*b*) of sub-section (*1*) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or

(*b*) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*3*) In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part Presumption as to knowledge.

thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute."

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TUESDAY, 30TH MARCH 1948.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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The following Act of the Bombay Legislature having been assented to by the Governor General on the 28th March 1948 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXVI OF 1948.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 30th March 1948.)

An Act to amend the Bombay Prevention of Prostitution Act, 1923.

26 Geo. 5, Ch. 2.

Bom. VII of 1943.

Bom. XI of 1923.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, read with paragraph 6 of the India (Provisional Constitution) Order, 1947, it is expedient to repeal and re-enact the Bombay Prevention of Prostitution (Amendment) Act, 1943;

AND WHEREAS it is expedient to amend the Bombay Prevention of Prostitution Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Prevention of Prostitution (Amendment) Act, 1948. Short title.

Repeal and re-enactment of Bom. VII of 1943.

2. The Bombay Prevention of Prostitution (Amendment) Act, 1943, is hereby repealed and re-enacted. Bom. VII of 1943.

Amendment of section 2 of Bom. XI of 1923.

3. In section 2 of the Bombay Prevention of Prostitution Act, 1923 (hereinafter called the said Act), Bom. XI of 1923.—

(i) to the definition of the expression "brothel" the following shall be added, namely :—

"and includes—

(1) where any house, room or place, or any part thereof is divided into cubicles by any means including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(2) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(3) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or parts therein or otherwise.";

(ii) in the definition of the expression "place of public amusement",—

(*a*) after the word "theatre" the word "cinema" shall be inserted; and

(*b*) for the words "or fencing school" the words "fencing school or dancing school" shall be substituted.

Amendment of section 3 of Bom. XI of 1923.

4. In section 3 of the said Act,—

(i) after the words "carnal intercourse" where they occur at both the places the words "or any act of gross indecency" shall be inserted;

(ii) for the words "three months" the words "six months" shall be substituted;

(iii) for the words "one hundred rupees" the words "five hundred rupees or with both" shall be substituted.

Amendment of section 4 of Bom. XI of 1923.

5. In section 4 of the said Act,—

(i) after the word "entertainment" the words "Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known" shall be inserted;

(ii) for the words "fine which may extend to one hundred rupees" the words "imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both" shall be substituted.

Amendment of section 6 of Bom. XI of 1923.

6. In section 6 of the said Act, for the words "to become a prostitute" the words "for the purposes of prostitution" shall be substituted.

Amendment of section 7 of Bom. XI of 1923.

7. In section 7 of the said Act, for the words "with a view to her becoming a prostitute" the words "whether a prostitute or not, for the purposes of prostitution" shall be substituted.

Amendment of section 8B of Bom. XI of 1923.

8. In section 8B of the said Act, for the words "five hundred" the words "one thousand" shall be substituted.

Amendment of marginal note to section 9 of Bom. XI of 1923.

9. For the marginal note to section 9 of the said Act, the following shall be substituted, namely :—

"Removal of prostitutes."

Insertion of new section 9B in Bom. XI of 1923.

10. After section 9A of the said Act, the following new section shall be inserted, namely :—

Common prostitute in vicinity of public places.

"9B. (*1*) Whoever carries on the business of a common prostitute in any premises—

(*a*) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(*b*) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(*2*) Any person who—

Punishment for permitting premises to be used for business of common prostitutes.

(*a*) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (*a*) or notified under clause (*b*) of sub-section (*1*) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or

(*b*) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be

used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Presumption as to knowledge.

(3) In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute."

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